

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

EDWARD R.L. ALEXANDER,

Plaintiff,

-against-

9:04-CV-1298  
(LEK/GJD)

W. WHITNEY; SGT. MITCHELL; RICHARD LAUX;  
CRAIG GUMMERSON

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on March 17, 2008 by the Honorable Gustave J. DiBianco, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 56). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Plaintiff, which were filed on March 26, 2008. Objections (Dkt. No. 57).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.<sup>1</sup>

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<sup>1</sup>The Court notes the updated Second Circuit standard for showing the personal involvement of a supervisory defendant as established in *Colon v. Coughlin*, 58 F.3d 865, 873 (2d Cir. 1995). Applying the current standard in its review, the Court still adopts the Report-Recommendation.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 56) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Defendants' Motion for summary judgment (Dkt. N. 51) is **DENIED ONLY AS TO THE CLAIM OF RETALIATION AS AGAINST DEFENDANT WHITNEY**; and it is further

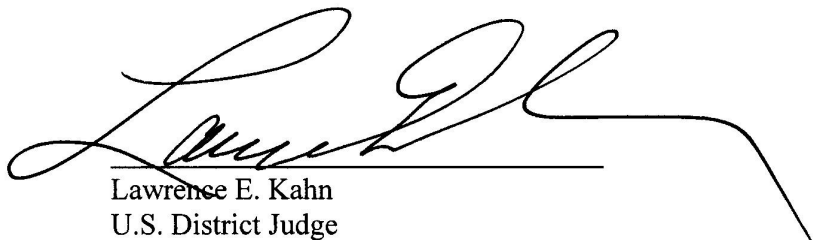
**ORDERED**, that Defendants' Motion for summary judgment (Dkt. No. 51) is **GRANTED IN ALL OTHER RESPECTS**; and it is further

**ORDERED**, that the Amended Complaint (Dkt. No. 43) is **DISMISSED IN ITS ENTIRETY AS TO DEFENDANTS LAUX, MITCHELL, AND GUMMERSON**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: March 31, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge